IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

Crl.MC.No. 3298 of 2007()

CRIME NO. 150/2006 of KOTHAMANGALAM POLICE STATION
CC.280/2006 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KOTHAMANGALAM

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PETITIONER: ACCUSED:

MUHAMMED MACKAR, AGED 47 YEARS,
S/O.MUHAMMED, MANGALATH HOUSE,
PUTHUPPALLY KARA, KOTHAMANGALAM.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: STATE AND COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY
SUB INSPECTOR OF POLICE, KOTHAMANGALAM POLICE STATION, REPRESENTED BY PUBLIC PRISECUTOR, HIGH COURT OF KERALA, ERNAKULA,, PIN 682 031.
(INVESTIGATING OFFICER IN CRIME NO.150/06 OF KOTHAMANGALAM POLICE STATION)

2. RAMLA BEEGUM, AGED 35 YEARS,
THOTTATHIKULAM HOUSE, KUTTILANJIKARA,
ERAMALLUR VILLAGE .

BY ADV. SRI.M.A.SHIHAB
SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 3298 Of 2007

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Dated this the 29th day of October, 2007

ORDER

The petitioner is the sole accused in a prosecution for the offence punishable under Section 498A IPC. The 2nd respondent herein is the de facto complainant. She is the wife of the petitioner. Cognizance has been taken on the basis of a final report submitted by the Police after due investigation. The case has been registered. The same is pending before the learned Magistrate.

2. The learned counsel for the petitioner submits, the learned counsel for the respondent accepts the said submission and a joint application for composition duly signed by the parties and counter signed by their counsel has been filed to that effect that the parties have settled their disputes amicably. The 2nd respondent has compounded the offence under Section 498A allegedly committed by the petitioner.

3. I am satisfied from the submissions made at the Bar, from the joint statement filed by the parties and averments in the Crl.M.C that the parties have willingly and voluntarily settled their disputes amicably. As against the petitioner the disputes have been settled and offences allegedly committed by him have been compounded by

the de facto complainant.

4. However, the offence under Section 498A I.P.C is not legally compoundable under Sec.320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the powers under Section 482 Cr.P.C are not fettered by the stipulations of Sec.320 Cr.P.C.

5. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked in the interests of justice. The interests of justice may at times transcend the interest of mere law. I am satisfied that this is a fit case where powers under Section 482 can be invoked.

6. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.280/2006 against the petitioner pending before the Judicial First Class Magistrate Court, Kothamangalam is hereby quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE